

§ 51.303

40 CFR Ch. I (7–1–04 Edition)

(C) The impairment of visibility in any mandatory Class I Federal area is reasonably attributable to the emissions of that pollutant.

[45 FR 80089, Dec. 2, 1980, as amended at 57 FR 40042, Sept. 1, 1992; 64 FR 35764, 35774, July 1, 1999; 69 FR 18803, Apr. 9, 2004]

§ 51.303 Exemptions from control.

(a)(1) Any existing stationary facility subject to the requirement under § 51.302 to install, operate, and maintain BART may apply to the Administrator for an exemption from that requirement.

(2) An application under this section must include all available documentation relevant to the impact of the source's emissions on visibility in any mandatory Class I Federal area and a demonstration by the existing stationary facility that it does not or will not, by itself or in combination with other sources, emit any air pollutant which may be reasonably anticipated to cause or contribute to a significant impairment of visibility in any mandatory Class I Federal area.

(b) Any fossil-fuel fired power plant with a total generating capacity of 750 megawatts or more may receive an exemption from BART only if the owner or operator of such power plant demonstrates to the satisfaction of the Administrator that such power plant is located at such a distance from all mandatory Class I Federal areas that such power plant does not or will not, by itself or in combination with other sources, emit any air pollutant which may reasonably be anticipated to cause or contribute to significant impairment of visibility in any such mandatory Class I Federal area.

(c) Application under this § 51.303 must be accompanied by a written concurrence from the State with regulatory authority over the source.

(d) The existing stationary facility must give prior written notice to all affected Federal Land Managers of any application for exemption under this § 51.303.

(e) The Federal Land Manager may provide an initial recommendation or comment on the disposition of such application. Such recommendation, where provided, must be part of the exemption application. This rec-

ommendation is not to be construed as the concurrence required under paragraph (h) of this section.

(f) The Administrator, within 90 days of receipt of an application for exemption from control, will provide notice of receipt of an exemption application and notice of opportunity for public hearing on the application.

(g) After notice and opportunity for public hearing, the Administrator may grant or deny the exemption. For purposes of judicial review, final EPA action on an application for an exemption under this § 51.303 will not occur until EPA approves or disapproves the State Implementation Plan revision.

(h) An exemption granted by the Administrator under this § 51.303 will be effective only upon concurrence by all affected Federal Land Managers with the Administrator's determination.

[45 FR 80089, Dec. 2, 1980, as amended by 64 FR 35774, July 1, 1999]

§ 51.304 Identification of integral vistas.

(a) On or before December 31, 1985 the Federal Land Manager may identify any integral vista. The integral vista must be identified according to criteria the Federal Land Manager develops. These criteria must include, but are not limited to, whether the integral vista is important to the visitor's visual experience of the mandatory Class I Federal area. Adoption of criteria must be preceded by reasonable notice and opportunity for public comment on the proposed criteria.

(b) The Federal Land Manager must notify the State of any integral vistas identified under paragraph (a) of this section, and the reasons therefor.

(c) The State must list in its implementation plan any integral vista the Federal Land Manager identifies at least six months prior to plan submission, and must list in its implementation plan at its earliest opportunity, and in no case later than at the time of the periodic review of the SIP required by § 51.306(c), any integral vista the Federal Land Manager identifies after that time.

(d) The State need not in its implementation plan list any integral vista the identification of which was not made in accordance with the criteria in